

1 Vanessa R. Waldref
2 United States Attorney
3 Eastern District of Washington
4 Richard R. Barker
5 Assistant United States Attorney
6 Post Office Box 1494
7 Spokane, WA 99210-1494
8 Telephone: (509) 353-2767

9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

Case No. 2:21-CR-00049-WFN-1

12 Plaintiff,

United States' Motion for Use of
Transcript

13 v.

14 RONALD CRAIG ILG (a/k/a
15 "SCAR215"),

16 Defendant

17 The United States of America, by and through United States Attorney Vanessa R.
18 Waldref and Assistant United States Attorney Richard R. Barker, respectfully moves this
19 Court to permit the use of a transcript of Defendant's statement to aid the jury in listening
20 to the audio recording of the statement.

21 **BACKGROUND**

22 Defendant is charged by way of a Superseding Indictment for various offenses
23 stemming from soliciting hitmen on the dark web to assault a former colleague and to
24 have his then estranged wife kidnapped. ECF No. 80. Shortly before he was charged, the
25 FBI interviewed Defendant at the Spokane International Airport. Although Defendant
26 moved to suppress his statements to the FBI, the Court denied Defendant's motion on
27 June 21, 2022. ECF No. 118. In the parties' briefing for the motion to suppress, the
28

1 United States provided a copy of the audio recording of the interview as well as a draft
2 transcript of Defendant's statements. *See* ECF No. 110, Ex. A and B.

3 REQUESTED RELIEF

4 In the event the United States elects to introduce Defendant's statement, the United
5 States will also seek to use the transcript to aid the jury in listening to the recording.

6 LAW AND ARGUMENT

7 It is well-settled that a trial judge has wide discretion in determining whether to
8 allow the use of transcripts to aid the jury in listening to recorded conversations. *See, e.g.,*
9 *United States v. Abonce-Barrera*, 257 F.3d 959, 963 (9th Cir. 2001); *United States v.*
10 *Rrapi*, 175 F.3d 742, 746 (9th Cir. 1999); *United States v. Hsieh Hui Mei Chen*, 754 F.2d
11 817, 824 (9th Cir.), *cert. denied*, 471 U.S. 1139 (1985); *United States v. Taghipour*, 964
12 F.2d 908, 910 (9th Cir.), *cert. denied*, 113 S.Ct. 283 (1992). Recognizing that discretion,
13 the Ninth Circuit has repeatedly upheld district courts' decisions to allow the use of
14 transcripts to aid the jury in listening to audio recordings. *See, e.g., Abonce-Barrera*, 257
15 F.3d at 964 (district court did not err in admitting transcript); *Rrapi*, 175 F.3d at 748
16 (district court did not err in admitting transcription or translations thereof); *United States*
17 *v. Pena-Espinoza*, 47 F.3d 356, 360 (9th Cir. 1995) (district court did not abuse its
18 discretion in admitting transcripts or in permitting jury to examine them during
19 deliberations); *United States v. Armijo*, 5 F.3d 1229, 1234 (9th Cir. 1993) (district court
20 did not abuse its discretion in allowing jury to read from transcript while listening to tape
21 or in admitting the transcripts); *United States v. Booker*, 952 F.2d 247, 249-250 (9th Cir.
22 1991) (district court did not abuse its discretion in allowing jury to use transcript in aid
23 of listening); *United States v. Delgado*, 357 F.3d 1061, 1070 (9th Cir. 2004), *abrogated*
24 *on other grounds by United States v. Nevils*, 598 F.3d 1158, 1167 (9th Cir. 2010) (en
25 banc) (district court did not abuse its discretion in allowing transcripts to be admitted for
26 the limited purpose of a listening aid).

1 The Ninth Circuit reviews steps taken to ensure the accuracy of the transcripts,
2 specifically, whether the court reviewed the transcript for accuracy; whether defense
3 counsel was allowed to highlight alleged inaccuracies and to introduce alternative
4 versions; whether the jury was instructed that the audio recording, rather than the
5 transcript, was evidence; and whether the jury was allowed to compare the transcript to
6 the tape and hear counsel's arguments as to the meaning of the conversations. *Armijo*, 5
7 F.3d at 1234 (citing *Hsieh Hui Mei Chen*, 754 F.2d at 824); *See also Delgado*, 357 F.3d
8 at 1071 (no error even though court did not review the transcripts for accuracy, because
9 Delgado was allowed to highlight alleged inaccuracies, the jury was instructed that the
10 tape, rather than the transcript, was evidence, and the jury was allowed to compare the
11 transcript to the tape).

12 Objections by defendants to the accuracy of transcripts do not preclude their
13 admission. *Booker*, 952 F.2d at 250; *Hsieh Hui Mei Chen*, 754 F.2d at 824. Instead, the
14 defense is permitted to introduce its own transcript and argue accuracy to the jury. *Id.*
15 Once admitted, transcripts may be used by the jury during the playing of recordings at
16 trial and during jury deliberations after the case has been submitted. *Taghipour*, 964 F.2d
17 at 910; *United States v. Turner*, 528 F.2d 143, 167-68 (9th Cir. 1975).

18 CONCLUSION

19 At this juncture, the United States is aware of no disputes as to the accuracy of its
20 proposed transcript. If there is a dispute as to accuracy, the United States asks that the
21 defense bring it to the government's attention prior to the marking of exhibits, as a
22 resolution may be able to be reached. If a resolution cannot be reached, the United States
23 understands Defendant will be permitted to argue the accuracy of the transcript to the jury
24 and introduce an alternative version of any disputed portion. Notably, the United States
25 made a small number of revisions to the transcript provided to the court for purposes of
26 the hearing on the motion to suppress. The revisions are non-substantive and reflect
27 minor typographical errors.

1
2 Dated: July 1, 2022

Vanessa R. Waldref
United States Attorney

3
4
5 /s/ Richard R. Barker

Richard R. Barker
Assistant United States Attorney

6
7
8 **CERTIFICATE OF SERVICE**

9 I hereby certify that on July 1, 2022, I electronically filed the foregoing with the
10 Clerk of the Court using the CM/ECF System which will send notification of such filing
11 to counsel of record.
12

13 /s/ Richard R. Barker

14 Richard R. Barker
15 Assistant United States Attorney
16
17
18
19
20
21
22
23
24
25
26
27
28